

**STATE OF WASHINGTON  
DEPARTMENT OF EARLY LEARNING  
LACEY, WASHINGTON**

**REQUEST FOR PROPOSALS  
RFP # 08-RFP-0102**

**PROJECT TITLE: Web Redesign**

**PROPOSAL DUE DATE: December 17, 2007 no later than 3:00 PM at the DEL Lacey office.**

**EXPECTED TIME PERIOD FOR CONTRACT: 1/18/08 – 03/31/2008**

**CONSULTANT ELIGIBILITY: This procurement is open to those consultants that satisfy the minimum qualifications stated herein and that are available and licensed for work in Washington State.**

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## **1. INTRODUCTION**

### **1.1 PURPOSE AND BACKGROUND**

The Washington State Department of Early Learning hereafter called "DEL," is initiating this Request for Proposals (RFP) to solicit proposals from firms interested in participating in a project to redesign DEL's Web site. DEL values parents as children's first and most important teachers. The redesigned site will provide thorough, accurate, easily accessible information for families seeking information about healthy child development and early learning opportunities. The site also will serve as a useful tool for child care providers seeking training opportunities or other information; journalists; and all Washington citizens seeking more information about early learning and the Department's work.

DEL's creation in 2005 has elevated the focus on early learning in our state. The first years of life are tremendously important. The brain is forming connections that determine a lifetime of skills and potentials. The two million Washington parents with children ages six and under deserve solid information to help them make early learning choices that are best suited for their families. DEL's Web site must offer that information cohesively and thoroughly.

DEL:

- Oversees 174,000 licensed child care slots in Washington to guarantee minimum health and safety standards are met.
- Sets policy for child care subsidies that benefit 60,000 children a month.
- Oversees the state-funded comprehensive preschool program for four-year-olds (Early Childhood Education and Assistance Program).
- Funds reading readiness initiatives.
- Seeks technology solutions to boost accountability and enhance safety and health standards for Washington children in licensed child care.

DEL's current Web site, [www.del.wa.gov](http://www.del.wa.gov), was designed and launched in 2006 under a tight timeline. The goal was to have a site in place by the beginning of the legislative session in January 2007.

Since its launch, it has become apparent that the site's functionality is not optimal. Users coming to the site for various purposes report difficulty finding the information they seek. In addition, contingent upon funding, Washington State law requires DEL to manage an online licensed child care information system that provides basic information about licensed child care facilities. DEL is seeking enhancement of this existing function's usability.

## 1.2 OBJECTIVE

The objective of this project is to design and launch a comprehensive Web site that delivers information needed by a variety of users: parents, child care providers, community members, media, and others. As a primary source of current information about early learning opportunities, research and best practices, DEL's site must be thoughtfully designed and easily accessible. As one of the most visual representations of DEL, the Web site must reflect DEL's mission and purpose on every page.

It is the intent of DEL to take advantage of best practices and industry standards for Web design throughout the design and development of the [www.del.wa.gov](http://www.del.wa.gov) Web site. User-centered design and strong search capability will be key elements of site functionality. Site content must include, but not be limited to, documents, graphics, data reports, media and online applications.

DEL seeks the following qualities in a redesigned, user-focused site:

- Learnability: users can accomplish basic tasks the first time
- Efficiency/performance
- Memorability: users can re-establish proficiency after returning to the site
- Satisfaction: users find the information they need due to intuitive, effective navigation that meets modern Web design standards.
- Accountability: Information presented on the website will be viewed as reliable and up to date.

With the redesign proposal, the DEL is looking for assistance in the actual implementation of the Web site. The Contractor will be expected to work closely with internal DEL Web developers, staff, and the public for the development of the Web pages, meta tagging and content placement.

Bidders must provide costs, timelines and plans for the Design and Implementation for the Web site.

Items should be separated to show the cost of each line item.

The Contractor shall produce the following deliverables by the dates indicated below:

- A. The Contractor will conduct interviews both internally and externally to identify target audience (s) no later than two weeks following the execution of the Contract.
- B. The Contractor will provide requirements analysis which contain:
  - a. Defining business goals
  - b. Prioritizing users and goals
  - c. Plan for User Centric Design (UCD) testing
  - d. Analysis of server logs, search logs, customer support data and contextual interviews no later than three weeks following the contract execution.
- C. The Contractor will provide a conceptual design of user profiles and content modeling no later than one month following the execution of the contract.

- D. The Contractor will deliver initial wireframes or initial templates no later than one month following the execution of the Contract
- E. The Contractor will begin usability tests of the wireframes and templates.
- F. The Contractor will deliver final design and templates no later than one and a half months following the execution of the Contract.
- G. Implementation assistance schedule will be agreed upon by the DEL and the Contractor. The goal is to have the site up in by March 31, 2008.

### 1.3 WEB SITE SPECIFICATIONS

The DEL Web site must demonstrate the principles of user-centered design to ensure user satisfaction and productivity. Bidders will show how they will integrate usability testing into the site design process and, following launch, into ongoing site operations. Usability testing will ensure that [www.del.wa.gov](http://www.del.wa.gov) continues to provide a positive online experience for users as they perform tasks, seek information and use the resources published on the site.

Design must comply with W3C Standards ([www.w3c.org](http://www.w3c.org)) and state standards as provided by the Department of Information Services ([www.dis.wa.gov/portfolio](http://www.dis.wa.gov/portfolio)).

#### **Specific requirements are as follows:**

1. Accessibility: Design shall provide equal Web access and opportunity for all users, including those with ADA requirements and older technology that may or may not be up to current standards.
  - i. Standards from the WC3 and 508 compliance will be incorporated into the site.
  - ii. Meta tags shall be defined in the site for robust search functions
  - iii. Site must be tested against various browser and technology platforms
2. Usability/Navigation: Design must support fast and effective search-to-destination results and intuitive, efficient navigation that meets modern Web design standards. Design must demonstrate a *look and feel* that unique (first-time) and returning visitors can navigate easily to locate information and/or complete tasks. The site must be designed around the needs of the end user and demonstrate these attributes:
  - i. Learnability: users can accomplish basic tasks the first time
  - ii. Efficient performance
  - iii. Memorability: users can re-establish proficiency after returning to the site
  - iv. Satisfaction: users report that it is a pleasant site to use
3. Utility or design functionality: Design must present an effective interface that enables the site to do what users need.

Audience may include but may not be limited to:

  - i. Parents
  - ii. Child care providers
  - iii. Community
  - iv. Educators

- v. Legislators/Government
- v. Media

4. Performance: Design should optimize performance of the site by designing for low page weight.
5. Search Tool: Design must incorporate a high quality search utility that is user friendly, meets the accessibility requirements of the redesign, and returns objective, relevant results rapidly and accurately. The layout of each search results page must be uncluttered and promote an efficient search dialogue. The navigation must be intuitive and easy to use.
6. Design and provide site-wide Cascade Style Sheets (CSS) with a preference for CSS 2.0 specifications

## 1.4 IMPLEMENTATION

Contractor will be expected to integrate usability testing into the site design process and, following launch, into ongoing site operations. Usability testing will ensure that [www.del.wa.gov](http://www.del.wa.gov) continues to provide a positive online experience for its users as they perform tasks, pull information and use the resources published on the site.

Any Solution must comply with W3C Standards ([www.w3c.org](http://www.w3c.org)) and state standards as provided by the Department of Information Services ([www.dis.wa.gov/portfolio](http://www.dis.wa.gov/portfolio)).

## 1.5 TECHNICAL SPECIFICATIONS

**A. Web Standards:** All aspects of design, development, and implementation must comply with all W3C Standards ([www.w3.org/MarkUp](http://www.w3.org/MarkUp)) and the state of Washington Department of Information Technology Services Internet Standards ([www.dis.wa.gov/portfolio](http://www.dis.wa.gov/portfolio)).

**B. Browsers:** Solution must support multiple browsers of the following versions at a minimum:

- ☐ IE 6.0+
- ☐ Netscape 7.0+
- ☐ Mozilla 1.1+
- ☐ Firefox 1.0+
- ☐ Safari 1.0+

**C. Usability and Navigation:** Design must support fast and effective search-to-destination results and intuitive, efficient navigation that meets modern Web design standards.

**D. Search Capability:** Solution must be user-centered to allow unique visitors and returning audiences to locate information easily. Adequate Meta data and descriptions must be defined in page content.

**E. Performance:** Solution must optimize performance of the DEL Web site by incorporating a minimum of the following features:

1. Low page weight
2. Optimized data structures and queries
3. Optimized code

**F. Maintainability:** Solution's front-end maintainability must be intuitive and straightforward so non-coding users can perform site maintenance.

1. Data access must be straight forward so non-coders can access site data.
2. Solution must offer printer-friendly version for users to print out information.

**I. Code Standards:** Solution must follow agency standards and framework.

1. ASP.Net 2.0
2. XHTML
2. C#
3. .NET 2.0
4. SQL 2005

## **1.6 MINIMUM QUALIFICATIONS**

The Bidder must be licensed to do business in the State of Washington. The Bidder shall have a minimum of five years experience with Web page designs.

## **1.7 FUNDING**

DEL encourages competitive proposals.

Any contract awarded as a result of this procurement is contingent upon the availability of funding.

## **1.8 PERIOD OF PERFORMANCE**

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin on or about 1/17/08 and to end on 3/31/08. Amendments extending the period of performance, if any, shall be at the sole discretion of DEL.

## **1.9 DEFINITIONS**

Definitions for the purposes of this RFP include:

**DEL** - The Department of Early Learning is DEL of the State of Washington that is issuing this RFP.



**Consultant** – Individual or company submitting a proposal in order to attain a contract with DEL.

**Contractor** – Individual or company whose proposal has been accepted by DEL and is awarded a fully executed, written contract.

**Proposal** – A formal offer submitted in response to this solicitation.

**Request for Proposals (RFP)** – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFP is to permit the consultant community to suggest various approaches to meet the need at a given price.

## 1.10 AMERICANS WITH DISABILITIES ACT

DEL complies with the Americans with Disabilities Act (ADA). Consultants may contact the RFP Coordinator to receive this Request for Proposals in Braille or on tape.

## 2. GENERAL INFORMATION FOR CONSULTANTS

### 2.1 RFP COORDINATOR

The RFP Coordinator is the sole point of contact in DEL for this procurement. All communication between the Consultant and DEL upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	Joyce Deshaye
<b>Mailing</b> Address	P.O. Box 40970
City, State, Zip Code	Olympia, Washington 98504-0970
<b>Courier</b> Address	649 Woodland Square Loop SE
City, State, Zip Code	Lacey, WA 98503
Phone Number	360-725-2834
Fax Number	360-413-3482
E-Mail Address	<a href="mailto:Joyce.deshaye@del.wa.gov">Joyce.deshaye@del.wa.gov</a>

Any other communication will be considered unofficial and non-binding on DEL. Consultants are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Consultant.

## **2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES**

Issue Request for Proposals	11/27/07 by 9:00 AM
Question & answer period	11/28/07 – 12/3/07
Issue addendum to RFP (if applicable)	12/5/07
Proposals due	12/17/07 by 3:00 PM
Evaluate proposals	12/19/07
Conduct oral interviews with finalists, if required	12/20-21/07
Announce “Apparent Successful Contractor” and send notification via fax or e-mail to unsuccessful proposers	12/27/07
Negotiate contract	12/27/07
File contract with OFM (if required)	12/28/07
Begin contract work	1/15/08

DEL reserves the right to revise the above schedule.

## **2.4 SUBMISSION OF PROPOSALS**

Consultants are required to submit five (5) copies of their proposal. The proposal, whether mailed or hand delivered, must arrive at DEL no later than 3:00 PM., local time, on December 14, 2007.

Hard copies proposals are to be sent to the RFP Coordinator at the address noted in Section 2.1. The envelope/package should be clearly marked to the attention of the RFP Coordinator.

Consultants mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals by the RFP Coordinator. Consultants assume the risk for the method of delivery chosen. DEL assumes no responsibility for delays caused by any delivery service. Proposals may not be transmitted using electronic media such as facsimile transmission.

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of DEL and will not be returned.

## **2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE**

Materials submitted in response to this competitive procurement shall become the property of DEL.

All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the Director of DEL and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in RCW 42.17.250 to .340, “Public Records.”

Any information in the proposal that the Consultant desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.17.250 to .340 must be clearly designated. The page must be identified and the particular exception from disclosure upon which the Consultant is making the claim. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page.

DEL will consider a Consultant's request for exemption from disclosure; however, DEL will make a decision predicated upon Chapter 42.17 RCW and Chapter 143-06 of the Washington Administrative Code. Marking the entire proposal exempt from disclosure will not be honored. The Consultant must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected proposer has been given an opportunity to seek a court injunction against the requested disclosure.

A charge will be made for copying and shipping, as outlined in RCW 42.17.300. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

## **2.6 REVISIONS TO THE RFP**

In the event it becomes necessary to revise any part of this RFP, addenda will be provided to all who receive the RFP. For this purpose, the published questions and answers from the preproposal conference and any other pertinent information shall be provided as an addendum to the RFP.

DEL also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

## **2.7 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION**

In accordance with the legislative findings and policies set forth in chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award, and proposals will not be rejected or considered non-responsive on that basis. Any affirmative action requirements set forth in federal regulations or statutes included or referenced in the contract documents will apply.

The established annual procurement participation goals for MBE is ten per cent (10%) and for WBE, four per cent (4%), for this type of project. These goals are voluntary. Bidders may contact OMWBE at 360-753-9693 to obtain information on certified firms.

## **2.8 ACCEPTANCE PERIOD**

Proposals must provide 60 days for acceptance by DEL from the due date for receipt of proposals.

## **2.9 RESPONSIVENESS**

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Consultant is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

DEL also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

## **2.10 MOST FAVORABLE TERMS**

DEL reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Consultant can propose. There will be no best and final offer procedure. DEL does reserve the right to contact a Consultant for clarification of its proposal.

The Consultant should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some, or all, of the Consultant's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to DEL.

## **2.11 CONTRACT AND GENERAL TERMS & CONDITIONS**

The apparent successful consultant will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit B. Any contract language questions or issues should be addressed in the proposal to allow for prompt negotiations and/or response to questions upon selection of an apparent successful consultant. In no event is a Consultant to submit its own standard contract terms and conditions in response to this solicitation. The Consultant may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. DEL will review requested exceptions and accept or reject the same at its sole discretion.

## **2.12 COSTS TO PROPOSE**

DEL will not be liable for any costs incurred by the Consultant in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

## **2.13 NO OBLIGATION TO CONTRACT**

This RFP does not obligate the State of Washington or DEL to contract for services specified herein.

## **2.14 REJECTION OF PROPOSALS**

DEL reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

## **2.15 COMMITMENT OF FUNDS**

The Director of DEL, or her delegates, are the only individuals who may legally commit DEL to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

## **2.16 INSURANCE COVERAGE**

The Contractor is to furnish DEL with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Contractor shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to DEL within fifteen (15) days of the contract effective date.

### **Liability Insurance**

- 1) Commercial General Liability Insurance: Contractor shall maintain general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on ISO occurrence from CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insureds (cross liability) condition.

Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

- 2) **Business Auto Policy:** As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of “Any Auto.” Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

**Employers Liability (“Stop Gap”) Insurance:** In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

### **Additional Provisions**

Above insurance policy shall include the following provisions:

1. **Additional Insured.** The State of Washington, Department of Early Learning, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.
2. **Cancellation.** State of Washington, Department of Early Learning, shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
3. **Identification.** Policy must reference the State’s contract number and DEL’s name.
4. **Insurance Carrier Rating.** All insurance and bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best’s Reports. Any exception shall be reviewed and approved by Debby Carr, Contract Specialist, or the Risk Manager for the State of Washington, before the contract is accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapter 48.15 RCW and 284-15 WAC.
5. **Excess Coverage.** By requiring insurance herein, the State does not represent that coverage and limits will be adequate to protect Contractor, and such coverage and limits shall not limit Contractor’s liability under the indemnities and reimbursements granted to the State in the contract.

### **Worker’s Compensation Coverage**

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The State will not be held responsive in any way for claims filed by the Contractor or their employees for services performed under the terms of the contract.

### **3. PROPOSAL CONTENTS**

Proposals must be submitted on eight and one-half by eleven (8 1/2 x 11) inch paper with tabs separating the major sections of the proposal. The four major sections of the proposal are to be submitted in the order noted below:

- 1) Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP);
- 2) Technical Proposal ;
- 3) Management Proposal; and,
- 4) Cost Proposal.

Proposals must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the proposal, but should assist the Consultant in preparing a thorough response.

Do **not** use staples: place each of the complete proposals in a separate notebook or binder.

Use the information set forth in Section 1.2 Objective, 1.3 Web Site Specifications, 1.4 Implementation and 1.5 Technical Specifications to prepare the Technical Proposal, Management Proposal and Cost Proposals.

#### **3.1 LETTER OF SUBMITTAL (MANDATORY)**

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Consultant to a contractual relationship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Consultant and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be negotiated.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
3. Legal status of the Consultant (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Federal Employer Tax Identification number and the Washington Uniform Business Identification (UBI) number issued by the State of Washington Department of Revenue.
5. Location of the facility from which the Consultant would operate.

6. Identify any State employees or former Washington State employees employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Consultant's organization. If following a review of this information, it is determined by DEL that a conflict of interest exists, the Consultant may be disqualified from further consideration for the award of a contract.

### **3.2 TECHNICAL PROPOSAL (SCORED)**

The Consultant must propose an approach for designing and implementing a user-focused Web site that reflects DEL's purpose and mission. The successful Consultant will demonstrate a clear vision for creating a Web site that serves as an effective communication tool and enables a variety of users to access information quickly and easily.

The Technical Proposal must contain a comprehensive description of services including the following elements:

- A. Project Approach/Methodology** – Include a complete description of the Consultant's proposed approach and methodology for the project. This section should convey the Consultants understanding of the proposed project.
- B. Work Plan** - Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Consultant's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of DEL staff. The Consultant may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.
- C. Project Schedule** - Include a project schedule indicating when the elements of the work will be completed and when deliverables, if any, will be provided.
- D. Outcomes and Performance Measurement** – Describe the impacts/outcomes the consultants propose to achieve as a result of DELivery of these services including how these outcomes would be monitored, measured and reported to the state DEL.
- E. Deliverables** – Fully describe deliverables to be submitted under the proposed contract.

### **3.3 MANAGEMENT PROPOSAL**

#### **A. Project Management (SCORED)**

1. **Project Team Structure/Internal Controls** - Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of



your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.

2. **Staff Qualifications/Experience** - Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Consultant must commit that staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of DEL.

## **B. Experience of the Consultant (SCORED)**

1. Indicate the experience the Consultant and any subcontractors have in the following areas:

Website design including, ADA specifications, learnability and performance

Effective navigation and usability

Current Web Standards, WC3 and 508 compliance

User Centric Design (UCD)

2. Indicate other relevant experience that indicates the qualifications of the Consultant, and any subcontractors, for the performance of the potential contract.
3. Include a list of contracts the Consultant has had during the last five (5) years that relate to the Consultant's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses.

## **C. References (SCORED)**

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three (3) business references for whom work has been accomplished and briefly describe the type of services provided. Do not include current DEL staff as references. The Consultant must grant permission to DEL to contact the references and others who may have pertinent information regarding the Consultant's qualifications and experience to perform the services required by this RFP. References will be contacted for the top-scoring proposal(s) only.

## **D. Related Information (MANDATORY)**

1. If the Consultant, or any subcontractor, has contracted with the State of Washington during the past 24 months, indicate the name of any contractors to DEL, the contract number and project description and/or other information available to identify the contract.
2. If the Consultant's staff or subcontractor's staff was an employee of the State of Washington during the past 24 months, or is currently a Washington state employee, identify the individual by name, DEL previously or currently employed by, job title or position held and separation date.
3. If the Consultant has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Consultant's non-performance or poor performance and the issue of performance was either: (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
4. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Consultant's position on the matter. DEL will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Consultant in the past five (5) years, so indicate.

**E. Office Minority Women-Owned Business Certification (Optional)**

Include proof of certification issued by the Washington State Office of Minority and Women-Owned Business if certified minority-owned firm and/or women-owned firm(s) will be participating on this project.

**3.4 COST PROPOSAL**

Consultants' proposals must include an estimated cost for design and implementation.

The evaluation process is designed to award this procurement not necessarily to the Consultant of least cost, but rather to the Consultant whose proposal best meets the requirements of this RFP. However, Consultants are encouraged to submit proposals which are consistent with State government efforts to conserve state resources.

**A. Identification of Costs (SCORED)**

Identify all costs including expenses to be charged for performing the services necessary to accomplish the objectives of the contract. The Consultant is to submit a fully detailed budget including staff costs and any expenses necessary to accomplish

the tasks and to produce the deliverables under the contract. Consultants are required to collect and pay Washington state sales tax, if applicable.

Costs for subcontractors are to be broken out separately. Please note if any subcontractors are certified by the Office of Minority and Women's Business Enterprises.

## **B. Computation**

The scores will be totaled and the highest score will be selected as the apparent successful bidder. All the referrals submitted may be contacted by DEL. Scores for referrals will only be used in case of a tie, or may be used, for any top proposals which scored within five (5) points of each other.

# **4. EVALUATION AND CONTRACT AWARD**

## **4.1 EVALUATION PROCEDURE**

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an evaluation team, to be designated by DEL, which will determine the ranking of the proposals.

Items in Section 3, Proposal Contents, marked "mandatory" must be included as part of the proposal for the proposal to be considered responsive; however, these items are not scored. Items marked "scored" are those that are awarded points as part of the evaluation conducted by the evaluation team.

DEL, at its sole discretion, may elect to require firms participate in an oral presentation.

DEL reserves the right to award the contract to the consultant whose proposal is deemed to be in the best interest of DEL and the State of Washington.

This space intentionally left blank.

## 4.2 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the proposal for evaluation purposes:

Scoring Section of Proposal		Total per Section
Technical Proposal – 40%		40 points
Project Approach/Methodology	10 points (maximum)	
Quality of Work Plan	15 points (maximum)	
Project Schedule	5 points (maximum)	
Project Deliverables	10 points (maximum)	
Management Proposal – 40%		40 points
Project Team Structure		
Internal Controls	10 points (maximum)	
Staff Qualifications/Experience	10 points (maximum)	
Experience of the Consultant	20 points (maximum)	
Cost Proposal – 20%		20 points
Identification of Costs	10 points (maximum)	
Budget Clear & Understandable	5 points (maximum)	
Budget adequately reflects all costs	5 points (maximum)	
<b>GRAND TOTAL</b>		<b>100 POINTS</b>

References will be contacted for the top-scoring proposer(s) only and will then be scored and added to the sub-total score.

## 4.3 ORAL PRESENTATIONS MAY BE REQUIRED

Should oral presentations become necessary, DEL will contact the top-scoring firm(s) to schedule a date, time and location. Commitments made by the Consultant at the oral interview, if any, will be considered binding. The score from the oral presentation will determine the successful Consultant.

#### **4.4 NOTIFICATION TO PROPOSERS**

Firms whose proposals have not been selected for further negotiation or award will be notified via e-mail, whenever possible.

#### **4.5 DEBRIEFING OF UNSUCCESSFUL PROPOSERS**

Upon request, a debriefing conference will be scheduled with an unsuccessful Consultant. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Notification of Unsuccessful Consultant letter is faxed/e-mailed to the Consultant. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM local time in Lacey, Washington on the third business day following the receipt of the Notification of Unsuccessful Consultant letter. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Consultant's proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one (1) hour.

#### **4.6 PROTEST PROCEDURE**

This procedure is available to Consultants who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Consultant is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 5:00 PM local time in Lacey, Washington on the third business day following the debriefing. Protests may be submitted by facsimile, but should be followed by the original document.

Consultants protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Consultants under this procurement.

All protests must be in writing and signed by the protesting party or an authorized Agent. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included. All protests shall be addressed to the RFP Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of the evaluator;
- Errors in computing the score;

- Non-compliance with procedures described in the procurement document or DEL policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) DEL'S assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by DEL. DEL director or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of delay.

In the event a protest may affect the interest of another Consultant which submitted a proposal, such Consultant will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold DEL's action; or
- Find only technical or harmless errors in DEL's acquisition process and determine DEL to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide DEL options which may include:
  - Correct the errors and re-evaluate all proposals, and/or
  - Reissue the solicitation document and begin a new process, or
  - Make other findings and determine other courses of action as appropriate.

If DEL determines that the protest is without merit, DEL will enter into a contract with the apparently successful consultant. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

## **5. RFP EXHIBITS**

Exhibit A Certifications and Assurances

Exhibit B Personal Service Contract Format including General Terms and Conditions (GT&Cs)

## EXHIBIT A – CERTIFICATION AND ASSURANCES

### CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by DEL without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that DEL will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of DEL, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.

8. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

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Signature of Proposer

---


Title

---

Date



## EXHIBIT B- CONTRACT SAMPLE

 Washington State Department of <b>Early Learning</b>		<b>Personal Service Contract</b>		<b>DEL Contract Number:</b>  <b>08-RFP-0102</b>
This Contract is between the state of Washington Department of Early Learning (DEL) and the Contractor identified below.				
<b>CONTRACTOR INFORMATION</b>				
<b>NAME</b>		<b>Doing business as (DBA)</b>		
<b>ADDRESS</b>		<b>WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)</b>		
<b>CONTACT</b>	<b>TELEPHONE</b>	<b>FAX</b>	<b>E-MAIL ADDRESS</b>	
<b>DEL INFORMATION</b>				
<b>CONTACT NAME AND TITLE</b>		<b>CONTACT ADDRESS</b> 649 Woodland Square Loop SE Lacey, WA 98503 P.O. Box 40970 Olympia, WA 98504-0970		
<b>TELEPHONE</b> 360-725-	<b>FAX</b> 360-413-	<b>E-MAIL ADDRESS</b>		
<b>IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> YES		<b>If A SUBRECIPIENT - CFDA NUMBER(S)</b>		
<b>STATE FUNDS</b> \$	<b>FEDERAL FUNDS</b> \$	<b>TOTAL MAXIMUM AMOUNT</b> \$		
<b>CONTRACT START DATE</b>		<b>CONTRACT END DATE</b>		
<b>CONTRACT PURPOSE:</b> The purpose of this Contract is to				
The following Exhibits are attached and are incorporated to this Contract by this reference: Exhibit A Statement of Work, Exhibit B Special Terms and Conditions and Exhibit C General Terms and Conditions.				
<b>The terms and conditions of this Contract are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Contract. The parties signing below represent that they have read and understand this Contract, and have the authority to execute this Contract. This Contract shall be binding on DEL only upon signature by DEL.</b>				
<b>CONTRACTOR SIGNATURE</b>		<b>PRINTED NAME AND TITLE</b>	<b>DATE SIGNED</b>	
<b>DEL SIGNATURE</b>		<b>PRINTED NAME AND TITLE</b> Deborah P Carr Contract Specialist	<b>DATE SIGNED</b>	

## **EXHIBIT A**

### **STATEMENT OF WORK**

DEL's current Web site, [www.del.wa.gov](http://www.del.wa.gov), was designed and launched in 2006 under a tight timeline. The goal was to have a site in place by the beginning of the legislative session in January 2007.

Since its launch, it has become apparent that the site's functionality is not optimal. Users coming to the site for various purposes report difficulty finding the information they seek. DEL is seeking enhancement of this existing function's usability.

Therefore the CONTRACTOR(s) will provide services to:

1. Enhance website usability including but not limited to:
  - 1.1.Learnability: users can accomplish basic tasks the first time
  - 1.2.Efficiency/performance
  - 1.3.Memorability: users can re-establish proficiency after returning to the site
  - 1.4.Satisfaction: users find the information they need due to intuitive, effective navigation that meets modern Web design standards.
  - 1.5.Accountability: Information presented on the website will be viewed as reliable and up to date.
2. The CONTRACTOR(s) will conduct interviews both internally and externally to identify target audience (s) and their specific uses and needs of the web site no later than two (2) weeks following the execution of the Contract.
3. The CONTRACTOR(s) will provide requirements analysis which contain:
  - 3.1.Defining business goals
  - 3.2.Prioritizing users and goals
  - 3.3.Plan for User Centric Design (UCD) testing
  - 3.4.Analysis of server logs, search logs, customer support data and contextual interviews no later than three (3) weeks following the contract execution.
4. The CONTRACTOR(s) will deliver an initial work breakdown schedule (WBS) and Implementation plan which will be reviewed and agreed upon by DEL and the Contractor.
5. The CONTRACTOR(s) will provide a conceptual design of user profiles and content modeling no later than one (1) month following the execution of the contract.
6. The CONTRACTOR(s) will deliver initial wireframes or initial templates no later than one (1) month following the execution of the Contract
7. The CONTRACTOR(s) will show how they will integrate usability testing into the site design process and, following launch, into ongoing site operations. The final DEL Web site must demonstrate the principles of user-centered design to ensure user satisfaction and productivity.

8. The CONTRACTOR(s) will deliver final design and templates no later than one and a half months following the execution of the Contract.
9. The CONTRACTOR(s) design must comply with W3C Standards ([www.w3c.org](http://www.w3c.org)) and state standards as provided by the Department of Information Services ([www.dis.wa.gov/portfolio](http://www.dis.wa.gov/portfolio)).

Specific requirements are as follows:

- 9.1. Accessibility: Design shall provide equal Web access and opportunity for all users, including those with ADA requirements and older technology that may or may not be up to current standards.
  - 9.2. Standards from the WC3 and the 508 compliance will be incorporated into the site.
  - 9.3. Meta tags shall be defined in the site for robust search functions
10. The CONTRACTOR(s) will deliver Usability/Navigation by providing fast and effective search-to-destination results and intuitive, efficient navigation that meets modern Web design standards.
    - 10.1. Design must demonstrate a *look and feel* that unique (first-time) and returning visitors can navigate easily to locate information and/or complete tasks.
    - 10.2. The site must be designed around the needs of the end user and demonstrate these attributes:
      - 10.2.1. Learnability: users can accomplish basic tasks the first time
      - 10.2.2. Efficient performance
      - 10.2.3. Memorability: users can re-establish proficiency after returning to the site
      - 10.2.4. Satisfaction: users report that it is a pleasant site to use
  11. The CONTRACTOR(s) will implement utility or design functionality in the web site by designing effective interfaces that enables the site to do what users need. The users include, but are not limited to:
    - 11.1. Parents
    - 11.2. Child care providers
    - 11.3. Community
    - 11.4. Educators
    - 11.5. Legislators/Government
    - 11.6. Media
  12. The CONTRACTOR(s) will optimize performance of the site by:
    - 12.1. Designing for low page weight
    - 12.2. Optimized data structures and queries
    - 12.3. Optimized code
  13. The CONTRACTOR(s) will incorporate a high quality search utility that is:
    - 13.1. User friendly
    - 13.2. Meets the accessibility requirements
    - 13.3. Returns objective, relevant results rapidly and accurately
    - 13.4. Returns a search results page that is uncluttered and promotes an efficient search dialogue

14. The CONTRACTOR(s) will design with site-wide Cascade Style Sheets (CSS) with a preference for CSS 2.0 specifications.
15. The CONTRACTOR(s) will provide the user with a “Printer Friendly” print option.
16. The CONTRACTOR(s) Browser solution must support multiple browsers of the following versions - at a minimum:
- ☐ IE 6.0+
  - ☐ Netscape 7.0+
  - ☐ Mozilla 1.1+
  - ☐ Firefox 1.0+
  - ☐ Safari 1.0+
17. The CONTRACTOR(s) will design the site mindful of front-end maintainability which must be intuitive and straightforward so non-coding users can perform site maintenance including data access which must be straight forward so non-coders can access site data.
18. The CONTRACTOR(s) will follow agency standards and framework including:
- 18.1. ASP.Net 2.0
  - 18.2. XHTML
19. The CONTRACTOR(s) will partner with DEL to coordinate the transition and launch of the web site.
20. The CONTRACTOR(s) will perform a usability test after final launch of the site to insure user satisfaction and productivity.
21. The CONTRACTOR(s) will perform full documentation of design and implementation.

Task	Task Due Date	Consideration
Itemize tasks	To be Determined	To be Determined

**EXHIBIT B**  
**SPECIAL TERMS AND CONDITIONS**

**1. TERMS AND CONDITIONS**

*All rights and obligations of the parties to this Contract shall be subject to and governed by Special Terms and Conditions set forth below, Exhibit A (Statement of Work) and Exhibit C (General Terms and Conditions). These terms and conditions govern the work to be performed under this Contract, the nature of the working relationship between DEL and the CONTRACTOR, and specific obligations of the parties.*

**2. SPECIAL TERMS AND CONDITIONS**

**a. Definitions Specific to Special Terms:** *The words and phrases listed below, as used in this Contract, shall each have the following definitions:*

**b. OFM FILING REQUIREMENT**

10-Day Filing

Under the provisions of Chapter 39.29 RCW, this personal service contract is required to be filed with the Office of Financial Management (OFM). No contract required to be so filed is effective and no work shall be commenced nor payment made until ten (10) working days following the date of filing, and if required, until approved by OFM. In the event OFM fails to approve the contract, the contract shall be null and void.

**c. BILLING PROCEDURES AND PAYMENT**

- (1) DEL will pay CONTRACTOR upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Department of Early Learning, Attn: Fiscal Office, P.O. Box 40970, Olympia, WA 98504-0970.
- (2) Payment shall be considered timely if made by the DEL within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.
- (3) DEL may, in its sole discretion, terminate the Contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this Contract.
- (4) No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by DEL.

**d. INSURANCE**

The CONTRACTOR shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits,

actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor, or agents of either, while performing under the terms of this Contract. The CONTRACTOR shall provide insurance coverage, which shall be maintained in full force and effect during the term of this Contract, as follows:

**Commercial General Liability Insurance Policy.** Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

**Automobile Liability.** In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is:

***\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.***

- (4) *The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give DEL thirty (30) calendar days advance notice of any insurance cancellation.*

CONTRACTOR shall submit to DEL within fifteen (15) calendar days of the Contract effective date, a certificate of insurance that outlines the coverage and limits defined in the *Insurance* section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the Contract.

**e. ASSURANCES**

DEL and the CONTRACTOR agree that all activity pursuant to this Contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

**f. ORDER OF PRECEDENCE**

Each of the exhibits listed below is by this reference hereby incorporated into this Contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and state of Washington statutes and regulations;

- Special Terms and Conditions as contained in this basic Contract instrument;
- Exhibit A – General Terms and Conditions;
- Exhibit B – Statement of Work; and
- Any other provision, term or material incorporated herein by reference or otherwise incorporated.

**g. ENTIRE AGREEMENT**

This Contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

**h. CONFORMANCE**

If any provision of this Contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

***APPROVED AS TO THE FORM BY THE OFFICE OF THE ATTORNEY GENERAL***

**EXHIBIT C**  
**GENERAL TERMS AND CONDITIONS**

**1. DEFINITIONS**

As used throughout this Contract, the following terms shall have the meaning set forth below:

- a. "AGENT" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.*
- b. "CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.*
- c. "SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.*

**2. ACCESS TO DATA**

In compliance with RCW 39.29.080, the CONTRACTOR shall provide access to data generated under this Contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions and recommendations of the CONTRACTOR'S reports, including computer models and methodology for those models.

**3. ADVANCE PAYMENTS PROHIBITED**

No payments in advance of or in anticipation of goods or services to be provided under this Contract shall be made by DEL.

**4. AMENDMENTS**

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

**5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35**

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.



**6. ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of DEL.

**7. ATTORNEYS' FEES**

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

**8. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

The CONTRACTOR shall not use or disclose any information concerning DEL, or information that may be classified as confidential, for any purpose not directly connected with the administration of this Contract, except with prior written consent of DEL, or as may be required by law.

**9. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, DEL may, in its sole discretion, by written notice to the CONTRACTOR terminate this Contract if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this Contract.

In the event this Contract is terminated as provided above, DEL shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the Contract by the CONTRACTOR. The rights and remedies of DEL provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

**10. COPYRIGHT PROVISIONS**

Unless otherwise provided, all materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by DEL. DEL shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S. Copyright laws, CONTRACTOR hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to DEL effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the contract, CONTRACTOR hereby grants to DEL a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CONTRACTOR warrants and represents that CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to DEL.

The CONTRACTOR shall exert all reasonable effort to advise DEL, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this Contract.

DEL shall receive prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any data delivered under this Contract. DEL shall have the right to modify or remove any restrictive markings placed upon the data by the CONTRACTOR.

#### **11. COVENANT AGAINST CONTINGENT FEES**

The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business.

DEL shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this Contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

#### **12. DISALLOWED COSTS**

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

#### **13. DISPUTES**

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with AGENT.

- a. The request for a dispute hearing must:*
- b. Be in writing;*
- c. State the disputed issue(s);*
- d. State the relative positions of the parties;*

- e. State the CONTRACTOR'S name, address, and contract number; and*
- f. Be mailed to the AGENT and the other party's (respondent's) contract manager within three (3) working calendar days after the parties agree that they cannot resolve the dispute.*
- g. The respondent shall send a written answer to the requester's statement to both the agent and the requester within five (5) working calendar days.*
- h. The AGENT shall review the written statements and reply in writing to both parties within ten (10) working calendar days. The AGENT may extend this period if necessary by notifying the parties.*
- i. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.*

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

#### **14. DUPLICATE PAYMENT**

DEL shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the state of Washington or any other party under any other Contract or agreement, for the same services or expenses.

#### **15. GOVERNING LAW**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

#### **16. INDEMNIFICATION**

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the Contract.

"Claim," as used in this Contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting there from. CONTRACTOR'S obligations to indemnify, defend, and hold harmless includes any claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend and hold harmless the state for any claim arising out of or incident to CONTRACTOR'S or any SUBCONTRACTOR'S performance or failure to perform the Contract. CONTRACTOR'S obligation to indemnify, defend, and hold

harmless the state shall not be eliminated or reduced by any actual or alleged concurrent negligence of state or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officials, agents or employees.

#### **17. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The CONTRACTOR and his or her employees or agents performing under this Contract are not employees or agents of DEL. The CONTRACTOR will not hold himself/herself out as or claim to be an officer or employee of the DEL or of the state of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

#### **18. INDUSTRIAL INSURANCE COVERAGE**

The CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, AGENCY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. DEL may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by DEL under this contract, and transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services. This provision does not waive any of L&I's right to collect from the CONTRACTOR.

#### **19. LICENSING, ACCREDITATION AND REGISTRATION**

The CONTRACTOR shall comply with all applicable local, state and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this Contract.

#### **20. LIMITATION OF AUTHORITY**

Only DEL or DEL'S delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Contract is not effective or binding unless made in writing and signed by the AGENT.

#### **21. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

In the event of the CONTRACTOR'S non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further

contracts with DEL. The CONTRACTOR shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

## **22. NONDISCRIMINATION**

During the performance of this Contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations and policies.

## **23. PRIVACY**

Personal information including, but not limited to, "Protected Health Information", collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the DEL or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless DEL for any damages related to the CONTRACTOR'S unauthorized use of personal information.

## **24. PUBLICITY**

The CONTRACTOR agrees to submit to DEL all advertising and publicity matters relating to this Contract wherein DEL'S name is mentioned or language used from which the connection of DEL'S name may, in DEL'S judgment, be inferred or implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of DEL.

## **25. RECORDS MAINTENANCE**

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract.

CONTRACTOR shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by DEL, personnel duly authorized by DEL, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**26. REGISTRATION WITH DEPARTMENT OF REVENUE**

The CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

**27. RIGHT OF INSPECTION**

The CONTRACTOR shall provide right of access to its facilities to DEL, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

**28. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, DEL may terminate the Contract under the "Termination for Convenience" clause, without the ten (10) day notice requirement, subject to renegotiation at DEL'S discretion under those new funding limitations and conditions.

**29. SEVERABILITY**

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.

**30. SITE SECURITY**

While on DEL premises, CONTRACTOR, its agents, employees or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

**31. SUBCONTRACTING**

Neither the CONTRACTOR nor any subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of DEL. In no event shall the existence of the subcontract operate to release or reduce the liability of the CONTRACTOR to DEL for any breach in the performance of the CONTRACTOR'S duties. This clause does not include contracts of employment between the CONTRACTOR and personnel assigned to work under this Contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of DEL or as provided by law.

### **32. TAXES**

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

### **33. TERMINATION FOR CAUSE**

In the event DEL determines the CONTRACTOR has failed to comply with the conditions of this Contract in a timely manner, DEL has the right to suspend or terminate this Contract. Before suspending or terminating the Contract, the DEL shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the Contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

DEL reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by DEL to terminate the Contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of DEL provided in this Contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

### **34. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract, DEL may, by ten (10) calendar days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, DEL shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

### **35. TERMINATION PROCEDURES**

Upon termination of this Contract, DEL, in addition to any other rights provided in this Contract, may require the CONTRACTOR to deliver to DEL any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

DEL shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by DEL, and the amount agreed upon by the CONTRACTOR and DEL for (i) completed work and services for which no separate price is stated, (ii) partially

completed work and services, (iii) other property or services that are accepted by DEL, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of DEL. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract.

DEL may withhold from any amounts due the CONTRACTOR such sum as DEL determines to be necessary to protect DEL against potential loss or liability. The rights and remedies of DEL provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a notice of termination, and except as otherwise directed by the AGENT, the CONTRACTOR shall:

- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
- b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
- c. Assign to DEL, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case DEL has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and SUBCONTRACTS;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AGENT to the extent AGENT may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to DEL and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the Contract had been completed, would have been required to be furnished to DEL;
- f. Complete performance of such part of the work as shall not have been terminated by the AGENT; and
- g. Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this Contract, which is in the possession of the CONTRACTOR and in which DEL has or may acquire an interest.

### **36. TREATMENT OF ASSETS**

- a. Title to all property furnished by DEL shall remain in DEL. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in DEL upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this Contract, shall pass to and vest in DEL upon (i) issuance for use of such property in the performance of this



Contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by DEL in whole or in part, whichever first occurs.

- b. Any property of DEL furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by DEL, be used only for the performance of this Contract.
- c. The CONTRACTOR shall be responsible for any loss or damage to property of DEL that results from the negligence of the CONTRACTOR or that results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
- d. If any DEL property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify DEL and shall take all reasonable steps to protect the property from further damage.
- e. The CONTRACTOR shall surrender to DEL all property of DEL prior to settlement upon completion, termination or cancellation of this Contract.
- f. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or subcontractors.

### **37. WAIVER**

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by authorized representative of DEL.